

AMENDED IN SENATE APRIL 13, 2010

SENATE BILL

No. 1229

Introduced by Senator Denham
(Coauthor: Senator Cox)

February 19, 2010

An act to amend Section ~~4000~~ of, and to add Sections 36018 and 38025.1 to, 36005 of the Vehicle Code, relating to vehicles.

LEGISLATIVE COUNSEL'S DIGEST

SB 1229, as amended, Denham. ~~Off-highway motor vehicles: agricultural use: highways. Vehicles: all-terrain vehicle: agricultural operations.~~

Existing law includes as an implement of husbandry, among other things, any vehicle that is operated upon a highway only for the purpose of transporting agricultural products and is in no event operated along a highway for a total distance greater than one mile from the point of origin of the trip.

This bill would add an all-terrain vehicle used in agricultural operations as an implement of husbandry.

~~(1) Existing law prohibits a person from operating an off-highway motor vehicle upon a highway, except to cross a 2-lane highway at an angle of approximately 90 degrees to the direction of the roadway under specified conditions:~~

~~This bill would allow a farmer, a rancher, or an employee of a farmer or rancher to operate an off-highway motor vehicle used exclusively in the conduct of agricultural operations that is in compliance with statutory identification and equipment requirements, and specified restrictions, to be operated upon a highway that is not a freeway and consists of not~~

~~more than 2 lanes. The bill would prohibit a farmer, a rancher, or an employee of a farmer or rancher from operating an off-highway motor vehicle on a highway if a portion of that highway is in a construction or maintenance area that is clearly posted.~~

~~The bill also would define “off-highway motor vehicle used exclusively in the conduct of agricultural operations” and “all-terrain vehicle used exclusively in the conduct of agricultural operations.”~~

~~(2) Under existing law, a violation of the Vehicle Code is an infraction, unless otherwise specified.~~

~~This bill would impose a state-mandated local program by creating a new infraction.~~

~~(3) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.~~

~~This bill would provide that no reimbursement is required by this act for a specified reason.~~

~~Vote: majority. Appropriation: no. Fiscal committee: yes-no. State-mandated local program: yes-no.~~

The people of the State of California do enact as follows:

1 SECTION 1. Section 36005 of the Vehicle Code is amended to
2 read:

3 36005. Implement of husbandry includes, but is not limited to,
4 all of the following:

5 (a) A lift carrier or other vehicle designed and used exclusively
6 for the lifting and carrying of implements of husbandry or tools
7 used exclusively for the production or harvesting of agricultural
8 products, when operated or moved upon a highway.

9 (b) A trailer of the tip-bed type when used exclusively in the
10 transportation of other implements of husbandry or tools used
11 exclusively for the production or harvesting of agricultural
12 products.

13 (c) A trailer or semitrailer having no bed, and designed and used
14 solely for transporting a hay loader or swather.

15 (d) A spray or fertilizer applicator rig used exclusively for
16 spraying or fertilizing in the conduct of agricultural operations.
17 This subdivision does not apply to anhydrous ammonia fertilizer
18 applicator rigs which have a transportation capacity in excess of
19 500 gallons.

1 (e) *(1)* A trailer or semitrailer—~~which~~ *that* has a maximum
2 transportation capacity in excess of 500 gallons, but not more than
3 1,000 gallons, used exclusively for the transportation and
4 application of anhydrous ammonia, if the vehicle is either equipped
5 with operating brakes or is towed upon a highway by a motortruck
6 that is assigned a manufacturer's gross vehicle weight rating of $\frac{3}{4}$
7 ton or more.

8 ~~These~~

9 *(2)* ~~These~~ vehicles are subject to Section 24603 if the stoplamps
10 of the towing vehicle are not clearly visible.

11 ~~For~~

12 *(3)* ~~For~~ purposes of this subdivision, a combination of vehicles
13 is limited to two vehicles in tandem.

14 (f) A nurse rig or equipment auxiliary to the use of and designed
15 or modified for the fueling, repairing, or loading of an applicator
16 rig or an airplane used for the dusting, spraying, fertilizing, or
17 seeding of crops.

18 (g) A row duster.

19 (h) A wagon or van used exclusively for carrying products of
20 farming from one part of a farm to another part thereof, or from
21 one farm to another farm, and used solely for agricultural purposes,
22 including any van used in harvesting alfalfa or cotton, which is
23 only incidentally operated or moved on a highway as a trailer.

24 (i) A wagon or portable house on wheels used solely by
25 shepherds as a permanent residence in connection with sheep
26 raising operations and moved from one part of a ranch to another
27 part thereof or from one ranch to another ranch, which is only
28 incidentally operated or moved on a highway as a trailer.

29 (j) Notwithstanding subdivision (f) of Section 36101, a trap
30 wagon, as defined in Section 36016, moved from one part of a
31 ranch to another part of the same ranch or from one ranch to
32 another, which is only operated or moved on a highway incidental
33 to agricultural operations. The fuel tank or tanks of the trap wagon
34 shall not exceed 1,000 gallons total capacity.

35 (k) Any vehicle—~~which~~ *that* is operated upon a highway only for
36 the purpose of transporting agricultural products and is in no event
37 operated along a highway for a total distance greater than one mile
38 from the point of origin of the trip.

39 (l) A portable honey-extracting trailer or semitrailer.

(m) A fertilizer nurse tank or trailer that is not self-propelled and which is moved unladen on the highway and auxiliary to the use of a spray or fertilizer applicator rig.

(n) Any cotton trailer when used on the highways for the exclusive purpose of transporting cotton from a farm to a cotton gin, and returning the empty trailer to such farm, except that Section 5014 shall apply to such trailers.

(o) A truck tractor or truck tractor and semitrailer combination specified in this subdivision which is owned by a farmer and operated on the highways, (1) only incidental to a farming operation, (2) not for compensation, and (3) for a distance of not more than two miles (on the highway) each way. This subdivision applies only to truck tractors with a manufacturer's gross vehicle weight rating over 10,000 pounds that are equipped with all-wheel drive and off-highway traction tires on all wheels, and only to semitrailers used in combination with such a truck tractor and exclusively in production or harvesting of tomatoes. The vehicles specified in this subdivision shall not be operated in excess of 25 miles per hour on the highways.

(p) *An all-terrain vehicle used in agricultural operations.*

~~SECTION 1. Section 4000 of the Vehicle Code is amended to read:~~

~~4000. (a) (1) A person shall not drive, move, or leave standing upon a highway, or in an offstreet public parking facility, any motor vehicle, trailer, semitrailer, pole or pipe dolly, or logging dolly, unless it is registered and the appropriate fees have been paid under this code or registered under the permanent trailer identification program, except that an off-highway motor vehicle that displays an identification plate or device issued by the department pursuant to Section 38010 may be driven, moved, or left standing in an offstreet public parking facility or may be operated by a farmer, a rancher, or an employee of a farmer or rancher in the manner authorized in Section 38025.1 without being registered or paying registration fees.~~

~~(2) For purposes of this subdivision, "offstreet public parking facility" means either of the following:~~

~~(A) A publicly owned parking facility.~~

~~(B) A privately owned parking facility for which a fee for the privilege to park is not charged and which is held open for the common public use of retail customers.~~

1 ~~(3) This subdivision does not apply to a motor vehicle stored~~
2 ~~in a privately owned offstreet parking facility by, or with the~~
3 ~~express permission of, the owner of the privately owned offstreet~~
4 ~~parking facility.~~

5 ~~(b) A person shall not drive, move, or leave standing upon a~~
6 ~~highway a motor vehicle, as defined in Chapter 2 (commencing~~
7 ~~with Section 39010) of Part 1 of Division 26 of the Health and~~
8 ~~Safety Code that has been registered in violation of Part 5~~
9 ~~(commencing with Section 43000) of that Division 26.~~

10 ~~(c) Subdivisions (a) and (b) do not apply to an off-highway~~
11 ~~motor vehicle operated pursuant to Sections 38025 and 38026.5.~~

12 ~~(d) This section does not apply, following payment of fees due~~
13 ~~for registration, during the time that registration and transfer is~~
14 ~~being withheld by the department pending the investigation of any~~
15 ~~use tax due under the Revenue and Taxation Code.~~

16 ~~(e) Subdivision (a) does not apply to a vehicle that is towed by~~
17 ~~a tow truck on the order of a sheriff, marshal, or other official~~
18 ~~acting pursuant to a court order or on the order of a peace officer~~
19 ~~acting pursuant to this code.~~

20 ~~(f) Subdivision (a) applies to a vehicle that is towed from a~~
21 ~~highway or offstreet parking facility under the direction of a~~
22 ~~highway service organization when that organization is providing~~
23 ~~emergency roadside assistance to that vehicle. However, the~~
24 ~~operator of a tow truck providing that assistance to that vehicle is~~
25 ~~not responsible for the violation of subdivision (a) with respect to~~
26 ~~that vehicle. The owner of an unregistered vehicle that is disabled~~
27 ~~and located on private property shall obtain a permit from the~~
28 ~~department pursuant to Section 4003 prior to having the vehicle~~
29 ~~towed on the highway.~~

30 ~~(g) For purposes of this section, possession of a California~~
31 ~~driver's license by the registered owner of a vehicle shall give rise~~
32 ~~to a rebuttable presumption that the owner is a resident of~~
33 ~~California.~~

34 ~~SEC. 2. Section 36018 is added to the Vehicle Code, to read:~~

35 ~~36018. "Off-highway motor vehicle used exclusively in the~~
36 ~~conduct of agricultural operations" or "all-terrain vehicle used~~
37 ~~exclusively in the conduct of agricultural operations" means a~~
38 ~~motor vehicle subject to subdivision (a) of Section 38010 that~~
39 ~~meets all of the following conditions:~~

1 ~~(a) The vehicle is designed for operation off of highways and~~
2 ~~is used exclusively in the conduct of an agricultural operation.~~

3 ~~(b) The vehicle carries not more than one passenger.~~

4 ~~(c) The vehicle is less than or equal to 50 inches wide.~~

5 ~~(d) The vehicle's unladen weight is less than or equal to 900~~
6 ~~pounds.~~

7 ~~(e) The vehicle is designed to travel on three or more~~
8 ~~low-pressure, rubber tires.~~

9 ~~(f) The vehicle has a seat or saddle designed to be straddled by~~
10 ~~the operator or a single seat designed to be straddled by the operator~~
11 ~~and a seat for not more than one passenger.~~

12 ~~(g) The vehicle has handlebars for steering control.~~

13 ~~SEC. 3.—Section 38025.1 is added to the Vehicle Code, to read:~~

14 ~~38025.1. (a) A farmer, a rancher, or an employee of a farmer~~
15 ~~or rancher may operate upon a highway, other than a freeway, an~~
16 ~~off-highway motor vehicle used exclusively in the conduct of~~
17 ~~agricultural operations, as defined in Section 36018, and that is in~~
18 ~~compliance with the identification requirements of this chapter~~
19 ~~and the equipment requirements of Chapter 6 (commencing with~~
20 ~~Section 38325), if the highway consists of not more than two lanes~~
21 ~~and the vehicle is operated in accordance with the following~~
22 ~~restrictions:~~

23 ~~(1) If the vehicle is crossing the highway, the following apply:~~

24 ~~(A) The vehicle may only cross the highway from and to~~
25 ~~adjacent and lawfully accessible property.~~

26 ~~(B) The highway is clearly visible to the operator and free of~~
27 ~~oncoming traffic for at least one-half mile in each direction.~~

28 ~~(C) The operator crosses the highway at a 90 degree angle.~~

29 ~~(D) An operator may temporarily stop on a median, if present,~~
30 ~~and if the median is at least 10 feet wide, in order to ensure the~~
31 ~~safe crossing of the vehicle.~~

32 ~~(2) An off-highway motor vehicle may travel along a shoulder~~
33 ~~of a highway that is at least 10 feet wide for a distance of not more~~
34 ~~than 100 yards and only if that travel is necessary to lawfully access~~
35 ~~adjacent property.~~

36 ~~(b) A farmer, a rancher, or an employee of a farmer or rancher~~
37 ~~shall not operate an off-highway motor vehicle upon a portion of~~
38 ~~a highway under subdivision (a) if that portion of the highway is~~
39 ~~in a highway construction or maintenance area that is clearly~~
40 ~~posted.~~

1 ~~SEC. 4. No reimbursement is required by this act pursuant to~~
2 ~~Section 6 of Article XIII B of the California Constitution because~~
3 ~~the only costs that may be incurred by a local agency or school~~
4 ~~district will be incurred because this act creates a new crime or~~
5 ~~infraction, eliminates a crime or infraction, or changes the penalty~~
6 ~~for a crime or infraction, within the meaning of Section 17556 of~~
7 ~~the Government Code, or changes the definition of a crime within~~
8 ~~the meaning of Section 6 of Article XIII B of the California~~
9 ~~Constitution.~~

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